ORIGINAL

CTIA
Building The Wireless Future
Cellular Telecommunications Industry Association

EX PARTE OR LATE FILED

RECEIVED
FEB - 8 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 8, 2000

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. 2nd Floor
Washington, D.C. 20554

Re: WT Docket No97-207
Ex Parte Presentation

Dear Ms. Salas:

Today, February 8, 2000, the Cellular Telecommunications Industry Association hand delivered the attached letters to Adam Krinsky, Legal Advisor to Commissioner Tristani, and Mark Schneider, Legal Advisor to Commissioner Ness.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and its attachments are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Dustun L. Ashton

Attachments (2)

071

Safety-Your most important call
1250 Connecticut Avenue, NW Suite 800 Washington, DC 20036 202.785.0081 phone 202.785.0721 fax www.wow-com.com

CTIA
Building The Wireless Future™
Cellular Telecommunications Industry Association

February 8, 2000

Via Facsimile 202 418-7542

Mr. Adam Krinsky
Legal Advisor
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th St. SW – RM 8C 302
Washington DC 20554

RE: WT Docket No. 97-207 - Calling Party Pays

Dear Mr. Krinsky:

Attached is the FCC's September 15, 1999, *News Release* regarding the FCC's *Third Report and Order and Fourth FNPRM* in CC Docket No. 96-98 on the Unbundling of Network Elements. Page 3 of the *News Release* includes a bullet on "signaling and call-related databases" to which Incumbent LECs are obligated to provide unbundled access, including the Line Information (LIDB) database.

Also attached are pages 37-38 of CTIA's Comments filed in WT Docket 97-207, which note the obligation of LECs to provide CMRS carriers' with access to "sufficient information to do their own billing and collection" consistent with Section 47 U.S.C. Sec. 251(d)(2)(B). *See* page 38 at n.93 and related text.

Also attached are pages 21-22 of CTIA Comments, and pages 15-17 of CTIA's Reply Comments filed in WT Docket No. 97-207, which discuss the reasons why the Commission should not require carriers to use unique service codes (either special area codes or CPP-specific numbers) as wasteful of numbering resources. *See* CTIA Comments at p.22; CTIA Reply Comments at p.17.

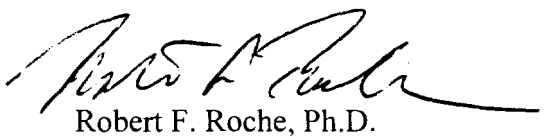
Likewise, pages 25-30 of CTIA's Reply Comments, also attached, further rebut the proposition that service-specific codes are an appropriate solution for PBX leakage, repeating this is a waste of scarce numbering resources, and arguing "Commission regulation intended to address PBX leakage and blockage is unwarranted at this time." CTIA Reply Comments at pp.27, 26.

As CTIA's Reply Comments note, Nortel, Illuminet and other companies have suggested that the solution to PBX leakage rests in the LIDB database and other functions already built into the public switched network. *See* CTIA Reply Comments at pp.28-30. Thus, with these capabilities and the market incentives which CMRS providers already have, Commission intervention is not necessary to resolve the issue of PBX leakage.

1250 Connecticut Avenue, NW Suite 800 Washington, DC 20036 202.785.0081 phone 202.785.0721 fax www.wow-com.com

If you require any further information with respect to the issue of Calling Party Pays, please do not hesitate to give me a call at 202-736-3255.

Sincerely,



Robert F. Roche, Ph.D.
Assistant Vice President
for Policy and Research

cc: FCC Secretary

This News Release: Text | Word97
Statements: Ness | Powell
FCC 99-238: Summary

FCC NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News media information 202 418-0500
Fax-On-Demand 202 418-2830
Internet: http://www.fcc.gov
TTY: 202/418-2555

FOR IMMEDIATE RELEASE
September 15, 1999

NEWS MEDIA CONTACT
Mike Balmoris (202) 418-0253

FCC PROMOTES LOCAL TELECOMMUNICATIONS COMPETITION

Adopts Rules on Unbundling of Network Elements

Washington, D.C. -- The Federal Communications Commission (FCC) adopted rules today that specify the portions of the nation's local telephone networks that incumbent local telephone companies must make available to competitors seeking to provide competitive local telephone service. This FCC decision removes a major uncertainty surrounding the unbundling obligations of the Telecommunications Act of 1996 and is expected to accelerate the development of competitive choices in local services for consumers. Unbundling allows competitors to lease portions of the incumbent's network to provide telecommunications services.

Today's order responds to a U.S. Supreme Court decision which generally affirmed the FCC's implementation of the pro-competition goals of the Telecommunications Act, but which required the Commission to re-evaluate the standard it uses to determine which network elements the incumbent local phone companies must unbundle.

Today's order adopts a standard for determining whether incumbents must unbundle a network element. Applying the revised standard, the Commission reaffirmed that incumbents must provide unbundled access to six of the original seven network elements that it required to be unbundled in the original order in 1996:

(1) loops, including loops used to provide high-capacity and advanced telecommunications services;
(2) network interface devices;
(3) local circuit switching (except for larger customers in major urban markets);
(4) dedicated and shared transport;
(5) signaling and call-related databases; and,
(6) operations support systems.

The Commission determined that it is generally no longer necessary for incumbent LECs to provide competitive carriers with the seventh element of the original list -- access to their operator and directory assistance services. The Commission concluded that the market has developed since 1996 to where competitors can and do self-provision these services, or acquire them from alternative sources.

The Commission also concluded, in light of competitive deployment of switches in the major urban areas, that, subject to certain conditions, incumbent LECs need not provide access to unbundled local circuit switching for customers with four or more lines that are located in the densest parts of the top 50 Metropolitan Statistical Areas (MSAs).

The Commission also addressed the unbundling obligations for network elements that were not on the original list in 1996. The Commission required incumbents to provide unbundled access to subloops, or portions of loops, and dark fiber optic loops and transport. In addition, the Commission declined, except in limited circumstances, to require incumbent LECs to unbundle the facilities used to provide high-speed Internet access and other data services, specifically, packet switches and digital subscriber line access multiplexers (DSLAMs). Given the nascent nature of this market and the desire of the Commission to do nothing to discourage the rapid deployment of advanced services, the Commission declined to impose an obligation on incumbents to provide unbundled access to packet switching or DSLAMs at this time. The Commission further noted that competing carriers are aggressively deploying such equipment in order to serve this emerging market sector.

Finally, the Commission also concluded that the record in this proceeding does not address sufficiently issues surrounding the ability of carriers to use certain unbundled network elements as a substitute for the incumbent LECs' special access services. The Commission therefore adopted a Further Notice of Proposed Rule Making (NPRM) seeking comment on these issues.

Action by the Commission, September 15, 1999, by Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (FCC 99-238). Chairman Kennard, Commissioners Ness and Tristani, with Commissioner Furchtgott-Roth concurring in part and dissenting in part and Commissioner Powell dissenting in part. Commissioners Ness, Furchtgott-Roth and Powell issuing statements.

-FCC-

Common Carrier Bureau Contacts:
Carol Mattey , Claudia Fox, Jake Jennings at (202) 418-1580

Report No. CC 99-41

SUMMARY

Network Elements that Must be Unbundled

- Loops. Incumbent local exchange carriers (LECs) must offer unbundled access to loops, including high-capacity lines, xDSL-capable loops, dark fiber, and inside wire owned by the incumbent LEC. The unbundling of the high frequency portion of the loop is being considered in another proceeding.

- Subloops. Incumbent LECs must offer unbundled access to subloops, or portions of the loop, at any accessible point. Such points include, for example, a pole or pedestal, the network interface device, the minimum point of entry to the customer premises, and the feeder distribution interface located in, for example, a utility room, a remote terminal, or a controlled environment vault. If parties are unable to reach an agreement pursuant to voluntary negotiations about the

technical feasibility of unbundling the loop at a specific point, the incumbent LEC will have the burden to demonstrate to the state that it is not technically feasible to unbundle the subloop at these points.

- Network Interface Device (NID). Incumbent LECs must offer unbundled access to NIDs throughout their service territory. The NID is a device used to connect loop facilities to inside wiring.

- Circuit Switching. Incumbent LECs must offer unbundled access to local circuit switching, except for switching used to serve end users with four or more lines in access density zone 1 (the densest areas) in the top 50 Metropolitan Statistical Areas (MSAs), provided that the incumbent LEC provides non-discriminatory, cost-based access to the enhanced extended link. (An enhanced extended link (EEL) consists of a combination of an unbundled loop, multiplexing/concentrating equipment, and dedicated transport. The EEL allows new entrants to serve customers without having to collocate in every central office in the incumbent's territory.)

- Interoffice Transmission Facilities. Incumbent LECs must unbundle dedicated interoffice transmission facilities, or transport, including dark fiber. Incumbent LECs must also unbundle shared transport (or interoffice transmission facilities that are shared by more than one carrier, including the incumbent) where unbundled local circuit switching is provided.

- Signaling and Call-Related Databases. Incumbent LECs must unbundle signaling links and signaling transfer points (STPs) in conjunction with unbundled switching, and on a stand-alone basis. Incumbent LECs must also offer unbundled access to call-related databases, including, but not limited to, the Line Information database (LIDB), Toll Free Calling database, Number Portability database, Calling Name (CNAM) database, Operator Services/Directory Assistance databases, Advanced Intelligent Network (AIN) databases, and the AIN platform and architecture. The Commission found that incumbent LECs need not unbundle certain AIN software.

- Operations Support Systems (OSS). Incumbent LECs must unbundle OSS throughout their service territory. OSS consists of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC's databases and information. The OSS element includes access to all loop qualification information contained in any of the incumbent LEC's databases or other records needed for the provision of advanced services.

Network Elements that Need Not be Unbundled.

- Operator Services and Directory Assistance (OS/DA). Incumbent LECs are not required to unbundle their OS/DA services pursuant to section 251(c)(3), except in the limited circumstance where an incumbent LEC does not provide customized routing to a requesting carrier to allow it to route traffic to alternative OS/DA providers. Operator services are any automatic or live assistance to a consumer to arrange for billing or completion of a telephone call. Directory assistance is a service that allows subscribers to retrieve telephone numbers of other subscribers. Incumbent LECs, however, remain obligated under the non-discrimination requirements of section 251(b)(3) to comply with the reasonable request of a carrier that purchases the incumbents' OS/DA services to rebrand or unbrand those services, and to provide directory assistance listings and updates in daily electronic batch files.

- Packet Switching. Incumbent LECs are not required to unbundle packet switching, except in the limited circumstance in which a requesting carrier is unable to install its Digital Subscriber Line Access Multiplexer (DSLAM) at the incumbent LEC's remote terminal, and the incumbent LEC provides packet switching for its own use. Packet switching involves the routing of individual data message units based on address or other routing information and

includes the necessary electronics (e.g., DSLAMs).

Modification of the National List.

- The Order recognizes that rapid changes in technology, competition, and the economic conditions of the telecommunications market will require a reevaluation of the national unbundling rules periodically. In order to encourage a reasonable period of certainty in the market, the Commission expects to reexamine the national list of unbundled network elements in three years.

- The Order permits state commissions to require incumbent LECs to unbundle additional elements as long as the obligations are consistent with the requirements of section 251 and the national policy framework instituted in this Order. The Order further concludes that the goals of the Act will better be served if network elements are not removed from the unbundling obligations of the Act on a state-by-state basis, at this time.

Combinations of Network Elements.

- Pursuant to section 51.315(b) of the Commission's rules, incumbent LECs are required to provide access to combinations of loop, multiplexing/concentrating equipment and dedicated transport if they are currently combined.

- The Order does not address whether an incumbent LEC must combine network elements that are not already combined in the network, because that issue is pending before the Eighth Circuit Court of Appeals.

Further Notice: Use of Unbundled Network Elements to Provide Exchange Access Service.

- The Commission sought comment on the legal and policy bases for precluding requesting carriers from substituting dedicated transport for special access entrance facilities.

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Calling Party Pays Service Offering	)	WT Docket No. 97-207
in the Commercial Mobile Radio Services	)	

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Michael F. Altschul
Vice President, General Counsel

Randall S. Coleman
Vice President for Regulatory Policy and Law

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

September 17, 1999

TABLE OF CONTENTS

Furthermore, CPP service will be optional in the U.S. -- for both carriers and consumers. If consumers are dissatisfied, they can elect not to participate. In the U.K., however, CPP is not optional. As a result, consumers are more vulnerable to noncompetitive pricing by CMRS providers for CPP.

Finally, the regulation of the U.K. and the U.S. mobile phone industries varies significantly. At this time, all mobile service providers in the U.K. are subject to stringent rate regulation based upon a traditional monopoly model cost-of-service regulatory approach. U.K. regulatory bodies engage in significant inquiries into the costs associated with providing, for example, call termination services. Costs for termination charges are assessed according to a long run incremental cost model. U.K. mobile carriers are entitled to earn a minimum rate of return on their investment determined by the government.[90] In short, mobile carriers in the U.K. are subject to more regulation now than has ever been imposed on the U.S. wireless industry, even when there were only two cellular carriers in each market. Imposing the U.K. regulatory structure on the dynamic U.S. CMRS industry will generate little benefit, but will impose significant oversight and compliance costs.

VII. THERE IS NO NEED AT THIS TIME FOR THE COMMISSION TO REQUIRE LECS TO PROVIDE CPP BILLING AND COLLECTION SERVICES.

As CTIA has maintained consistently, the provision of CPP service does not automatically require the Commission to exercise jurisdiction over billing and collection.[91] It is premature to assume

---

90 See, generally, Cellnet and Vodafone: Reports on references under section 13 of the Telecommunications Act 1984 on the charges made by Cellnet and Vodafone for terminating calls from fixed-line networks, Monopolies and Mergers Commission (Dec. 1998) (located at <http://www.oftel.gov.uk.pricing/ccmc1298.htm>); Prices of calls to mobile phones – Statement, OFTEL, Office of Telecommunications (Mar. 1998) (located at <http://www.oftel.gov.uk.pricing/ctm0398.htm>).

91 See Notice at ¶¶ 55-68.

that CPP services cannot develop without access to LEC billing and collection services. Rather, what is now necessary is for a CMRS carrier to receive access to key information from LECs so that the carrier itself can bill and collect for CPP service. Section 251(c)(3) of the Communications Act[92] obligates incumbent LECs to provide requesting telecommunications carriers, on an unbundled basis, with sufficient information to do their own billing and collection.[93] The Commission should ensure that CMRS carriers have access to such necessary data so that they may bill and collect from CPP callers.[94] Depriving access to this core billing information would impair the ability of a CMRS carrier to provide CPP services.[95] Therefore, by law, ILECs should be required to provide such access to this key information as a means to foster CPP development and otherwise promote competition. [96]

---

92 47 U.S.C. §251(c)(3).

93 The definition of "network element" in 47 U.S.C. § 153(29) includes "information sufficient for billing and collection."

94 See Notice at ¶ 66 (citing Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *Second Further Notice of Proposed Rulemaking*, CC Docket Nos. 96-98, 95-185, FCC 99-70 (rel. Apr. 16, 1999)); see also FCC News Release, "FCC Promotes Local Telecommunications Competition; Adopts Rules on Unbundling of Network Elements," Rep. No. CC-9941 (Sep. 15, 1999) (requiring that ILECs must provide unbundled access to operations support systems).

95 See 47 U.S.C. § 251(d)(2)(B).

96 In addition, prior to the Telecommunications Act of 1996, the Commission determined that billing, name, and address ("BNA") was a Title II common carrier service, access to which other interstate common carriers were entitled. Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, *Second Report and Order*, 8 FCC Rcd 4478 (1993).

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Calling Party Pays Service Offering	)	WT Docket No. 97-207
in the Commercial Mobile Radio Services	)	

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Michael F. Altschul
Vice President, General Counsel

Randall S. Coleman
Vice President for Regulatory Policy and Law

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

September 17, 1999

carrier. The Commission, though, should not micromanage the notification message by dictating its exact content.

CTIA continues to support the use of a distinctive tone. CTIA also supports for a sufficient period of time, such as 18-24 months after a Commission Order, a recorded intercept message that will inform callers that they will be charged for placing a call to a CMRS subscriber electing CPP service. This notification format will ensure that the calling party is provided with sufficient information – directly analogous to the information provided to a party before accepting a collect call – to decide whether to continue the CPP call or to terminate without incurring a charge. This format has the advantage of not imposing undue or unnecessary requirements on the CMRS providers offering CPP service. Once callers are familiar with the notion of CPP, the notification can be simplified over time.[48] After 18-24 months of the notification message, the Commission should move to a distinctive tone.[49]

Similarly, the Commission should reject other notification methods such as unique service codes or 1+ dialing[50] as discriminatory and unworkable. CTIA questions the purported benefits of such proposals. Rather, the Commission should exercise its exclusive authority over numbering

---

48 See id. at ¶ 44.

49 Distinctive tones are already used in a variety of settings and are easily understood by most consumers. For example, the "busy signal" is a common tone that is understood throughout the nation to mean that the called party is already using the telephone. Also, many local and interexchange carriers have created their own distinctive tones that signal callers when to input their calling card numbers.

50 Notice at ¶¶ 45-48.

administration[51] to preclude states from adopting CPP notification schemes based upon 1+ dialing or service-specific area codes.[52]

The Commission recently sought comments in its numbering resource optimization proceeding on the utility of service- or technology-specific area codes for CPP. In commenting in this proceeding, CTIA addressed in detail its concern with the discriminatory and anticompetitive nature of such numbering strategies generally. Telephone numbers are limited resources that should not be wasted for any purpose, including CPP. Given the availability of alternative, more effective notification methods, it makes little sense to squander limited numbering resources by employing inefficient CPP-specific area codes. In the long term, a distinctive tone should provide sufficient notice of the unique nature of the CPP call without resort to special telephone numbers.

B. Requiring That The Intercept Message Contain Detailed Information About Rates Is Potentially Misleading And Prohibitively Expensive.

CTIA objects to the Commission's proposal to disclose per-minute charges and other applicable fees such as roaming charges in the notification message.[53] The Commission has tentatively concluded "that rate information would be considered relevant by a substantial majority of calling parties -- common sense tells us that most people would be reluctant to undertake responsibility for paying for

---

51 47 U.S.C. § 251(e)(1).

52 See Notice at ¶ 49 ("CTIA also argues that the Commission could use its jurisdiction over numbering to preempt states from establishing inconsistent numbering schemes as the basis for CPP notification at the state level.").

53 See id. at ¶ 42. Notably, the Commission wants the notification message to disclose "all of the additional charges billed by the CMRS provider to the calling party for the call," including per minute charges to terminate airtime, and roaming and long distance fees. Id. at ¶ 43.

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Calling Party Pays Service Offering	)	WT Docket No. 97-207
in the Commercial Mobile Radio Services	)	

REPLY COMMENTS OF THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Michael F. Altschul
Vice President, General Counsel

Randall S. Coleman
Vice President for Regulatory Policy and Law

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

October 18, 1999

TABLE OF CONTENTS

whether additional state-specific notification requirements could be implemented as a practical matter. Given that many wireless coverage areas cut across state lines, there may be technical limitations on having different notification requirements depending on the call origination and destination points within the coverage area."[29] In light of this, the Commission should determine that state regulation of CPP is unnecessary and inappropriate.

3. The Commission Should Ensure That The Notification Mechanism Is Simple, Clear, and Effective.

The Commission should ensure that its regulation of CPP does not impair a carrier's ability to adopt a short, yet effective, notification message. If the Commission's regulation of the notification mechanism effectively requires a carrier to provide a detailed, lengthy message, the Commission will guarantee (1) that CMRS carriers will be unwilling to provide CPP services; and (2) that consumers will be less inclined to subscribe to CPP service offerings.

It is imperative that the Commission not attach significant obligations to the notification message. Nor should it adopt exact language, require the disclosure of the relevant charges for CPP service,[30] or otherwise regulate CPP rates.[31] In other services, regulators have long

---

Telecommunications Industry Association in WT Docket No. 97-207, at 10-16 (filed Oct. 4, 1999).

29 Florida Commission Replies at 3.

30 Requiring that CMRS carriers disclose CPP rates is a public utility, monopoly carrier approach to regulation that assumes that CMRS CPP prices will remain static. In fact, in competitive markets such as CMRS, carriers offer a number of rate plans tailored to customer demand -- the same is likely to be true for CPP CMRS offerings.

31 See, e.g., Opening Comments of Global Wireless Consumers Alliance at 3 (advocates requiring rate/cost of the call notification); Comments of the National Telephone Cooperative Association at 2 (the uniform notification announcement should disclose total charges associated with the CPP call); Comments of MCI WorldCom, Inc. at 16

sanctioned the use of simple disclosure messages that provide notice that there will be a charge, but that do not specify per-minute charges. For example, in the wireline telecommunications market, there is no requirement on LECs providing intraLATA toll services to provide calling parties with any notification of the applicable per-minute toll charges.[32] As Omnipoint notes, such charges can be relatively high: in New Jersey as high as $.42 for the first minute and $.12 for each additional minute. Yet, these calls have no notification requirement that informs callers in real-time the charges associated with that call. Nor do these calls have a distinctive dialing pattern (such as 1+ dialing) that may alert the caller.[33] The same can be said for most collect calls. The person responsible for the paying the charge is generally not provided with rate information in a preamble message. Rather, they are informed of the name of the carrier involved and the calling party. These services are functioning adequately without significant up-front "consumer protection" regulation. There is every reason to believe that the same will be true for CPP.

(CPP rates should be based on costs) ("MCI WorldCom Comments"); AARP Comments at 5 (Commission should cap rates for CPP calls or set up a functionally equivalent rate scheme); CPUC Comments at 13 (CMRS per-minute termination rates should not exceed originating rates).

32 See PCIA Comments at 29, n. 75.

33 Comments of Omnipoint Communications, Inc. at 3-4. It is ironic that states would permit such intrastate wireline calls without any visible "consumer protection" mechanisms such as a preamble message, yet have such a vocal opinion about the need to protect local ratepayers from a CMRS provider's CPP offering.

Similarly, the Commission should not require carriers to use special area codes or CPP-specific phone numbers as a means of informing consumers that they will be charged for a call.[34] CTIA cataloged a list of reasons why the Commission should reject such an approach in its Comments, including the negative effect that service-specific area codes will have on number exhaust.[35] Moreover, as U S WEST explains, use of special CPP numbers is an added deterrent to CPP development because it would require CPP subscribers who decided to discontinue CPP service to change their phone numbers and to have their phones reprogrammed.[36] Given this, mandatory numbering obligations are inappropriate.

For CPP services the Commission would do better to adopt goal-oriented regulation as opposed to an excessively-detailed notification requirement. A detailed notification requirement that requires the use of specific language can undermine a carrier's ability to offer service as well as the CMRS customer's willingness to subscribe to CPP. Furthermore, it is absolutely essential that the Commission not mandate the direct content of the subscriber notification announcement especially because certain language may deter a CMRS customer's willingness to subscribe to CPP, especially if the notification message implies that the customer is cheap.[37] Instead, the

---

34 See, e.g., Wisconsin Commission Comments at 4 (supports use of distinct dialing codes, including separate wireless-only area codes and "toll-free" CPP numbers); Comments of MCI WorldCom, Inc. at 10.

35 CTIA Comments at 21-22.

36 U S WEST Comments at 16-17.

37 To illustrate, if the Commission required the carrier to disclose that the "customer has chosen (or elected) to have the callers pay" for this CPP call, the CMRS customer may be less inclined to subscribe to CPP because of his concern that callers may find him cheap. See Comments of GTE at 9 ("GTE Comments"). For this reason, among others, GTE found it essential that the Commission not mandate that carriers provide CPP or require

billing for CPP.[62] As AirTouch notes, such a prohibition is tantamount to a barrier to entry prohibited by the Communications Act.[63]

For similar reasons, the Commission should reject the Florida Commission's request that the Commission ensure that "states have the flexibility to impose requirements governing the billing of CPP charges on wireline bills" consistent with its ability to regulate the other terms and conditions of CMRS.[64] The Commission's truth in billing regulations should resolve any particular concerns that states may have regarding the billing practices of CMRS carriers.[65] In effect, this argument disputes the Commission's finding that a uniform, national approach to CPP service regulation is essential, and ignores the fact that CPP offerings will transcend state lines.[66] Extraneous state regulation, though, is unnecessary and may bar CPP development.

D. The Commission Should Not Regulate Technical Issues Surrounding CPP.

Several commenters have asked the Commission to regulate certain technical matters surrounding CPP which in fact do not require Commission action. Specifically, commenters

---

62 See Ohio Commission Comments at 12 ("Ohio Commission possesses the requisite authority to preclude LECs from including in their bills for local exchange service charges from CMRS CPP service"); Comments of Washington Utilities and Transportation Commission at 4-5 (recommending that the Commission not supersede state efforts to regulate billing and collection by LECs) ("WUTC Comments"); CPUC Comments at 14-15 (billing and collection a matter of state regulation).

63 AirTouch Comments at 31-36 (citing Sections 332(c)(3)(A) and 253, 47 U.S.C. § 253(a)).

64 Florida Commission Replies at 4.

65 See Truth-in-Billing and Billing Format, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 7492 (1999).

66 Moreover, with the growth of CLECs, more and more calls to wireless carriers will originate on CLEC networks. Such calls generally are not governed by state billing and collection regulation.

have requested that the Commission create technical and regulatory specifications for the benefit of PBX owners and payphone operators.[67] As these commenters note, there remain unresolved matters concerning CPP calls made from private PBXs and from public payphones. These issues, however, are better resolved by the industry and should not divert the Commission's attention from the purpose of this proceeding -- to remove the regulatory barriers to CPP development.

The Ad Hoc Commenters along with other PBX owners are concerned about their ability to restrict calls that originate on PBX networks and to recover charges for CPP calls from the caller.[68] Although they suggest that CMRS providers are not similarly interested, this is not in fact true. CMRS providers are just as concerned, if not more so, in eliminating uncollectibles. Therefore, the industry will develop a solution to this technical obstacle found in PBXs. Commission regulation intended to address PBX leakage and blockage is unwarranted at this time.

Supporters of additional regulation to address leaky PBXs propose that the Commission adopt CPP specific area codes which could then be programmed into PBXs by their owners to restrict CPP calls.[69] The record before the Commission in this proceeding and in other related

---

67 See Comments of Counsel for Ad Hoc Telecommunications Users Committee, et al., at 13 ("The Commission should implement CPP only in a manner that would permit the paying party to track and block CPP calls from its premises . . . .") ("Ad Hoc Comments"); Comments of the American Public Communications Council at 5 (the Commission "should adopt rules that unconditionally exempt PSPs from being charged for direct-dialed CPP calls.") ("APCC Comments").

68 Ad Hoc Comments at 4; Comments of Washington State Department of Information Services at 2 ("Washington DIS"); Comments of Lander University at 1.

69 See Ad Hoc Comments at 15; Washington DIS Comments at 2.

proceedings makes clear, however, that the Commission should not adopt service specific area codes for CPP. In the Numbering Resource Optimization proceeding[70] it was well established that area codes are a limited resource that should not be wasted for any purpose, including CPP. Nextel points out that in addition to area code shortages, CPP-specific area codes are at odds with the Commission's number portability policies because they would "prevent portability between wireless and wireline networks."[71] Nextel also correctly notes that CPP is only a service offering and as such, "should that customer change his or her mind and desire to drop CPP services, he or she would, again, have to change numbers to eliminate the CPP option. Requiring consumers to change their phone number simply to add or delete a particular service option is not in the public interest."[72] Moreover, CPP may be offered on a per-call basis by some CMRS providers utilizing AIN capabilities to distinguish between callers that the subscriber wishes to treat as CPP and others that the subscriber will pay. A unique CPP NXX code would interfere with such a service offering. Finally, the Washington Utilities and Transportation Commission opposes CPP specific area codes because they are ineffective, inconvenient, and "needlessly consume the finite resource of telephone numbers."[73]

While not diminishing the importance of this matter, it would be regulatory overkill for the Commission to implement CPP-specific area codes to address the narrow concerns of PBX

---

70 In the Matter of Numbering Resource Optimization, et. al., CC Docket No. 99-200, *Notice of Proposed RuleMaking*, FCC 99-122 (rel. June 2, 1999).

71 Comments of Nextel at 7.

72 Id. at 7, n.7.

73 WUTC Comments at 3-4.

owners. Moreover, given the availability of alternative methods to protect PBX owners, it makes little sense to sacrifice limited numbering resources to PBX interests.

Some commenters also request that CMRS providers should reimburse institutions for any modifications they may choose to make to their PBXs.[74] Not only is such a request unworkable, but it is also unnecessary because PBX modifications will likely not be necessary to avoid leakage. Requiring CMRS providers to reimburse PBX operators to upgrade their networks opens a flood of issues that will only serve to delay CPP deployment.[75] Simply stated, there is no logical connection between PBX owners and CMRS providers electing to offer CPP.

The solution more likely lies in the network. As the comments demonstrate, there are a variety of options available in the public switched network that will ensure that PBX and payphone owners are not billed for unauthorized calls. The Commission, however, should not delay lifting CPP barriers while it contemplates the best course of action. Devising the solution to these and other technical matters should be left to the industry.

Those who know the telecommunications network best and understand its technical capabilities explain that the:

> issues are not insurmountable, and indeed can be implemented relatively economically by making use of the current capabilities of the telecommunications infrastructure. Nortel further believes that the resolution of these issues should be left to the industry to address on a coordinated basis, and not simply dictated by

---

74 See Joint Commenters at 44.

75 For instance, carriers would need to determine which PBX upgrades were the result of CPP and which would have been undertaken regardless of CPP. Similarly, they would need to explore which CMRS provider would pay for a particular PBX owner's upgrade. These questions are practically unanswerable because the carrier ultimately collecting for CPP service may not even be in the same city or state as the PBX owner.

> regulatory fiat. Thus, Nortel urges the Commission to take a largely passive role with respect to the development of technical specifications.[76]

Specifically, Nortel suggests that the solution to PBX leakage lies in the Line Information Data Base ("LIDB") function incorporated in the LECs' networks. LIDB is presently used, among other things, to screen collect calls to PBXs. If a PBX owner is unwilling to accept collect calls, then the call is not completed.[77] The same system can likely be applied for CPP.[78] Illuminet agrees with the LIDB solution[79] and APCC offers its own suggestion,[80] both of which rely upon functionalities already built into the public switched network. The Commission can expect that the industry will devise a means to use the network's existing functionality to screen for CPP

---

76 Comments of Nortel Networks at 2.

77 Id. at 7-9.

78 See U S WEST Comments at 28 ("Another way that leakage can be managed is through existing telecommunications offerings provided by carriers (LECs in particular) through which CMRS providers can determine whether a call should be processed as a CPP call or not. Information to aid the CMRS provider in making this determination resides in the LECs' Line Information Databases (LIDB). CMRS providers can query those databases, secure the necessary information, and determine whether or not to process the call for 'routine' billing or require some type of alternative billing mechanism/information, such as credit card billing.").

79 Illuminet contends that "[b]y examining the Originating Billing/Service Indicators (information that already exists in most of or all of the domestic LIDBs today) or by reviewing additional codes provided in the [Originating Line Number Screening] query response to support CPP, the wireless carrier would be able to determine whether the originating station is not a billable station (e.g., a public paystation) and elect not to complete the call or provide the caller a workable alternative billing option." Comments of Illuminet at 3-4.

80 APCC contends that Flex ANI service should be made available to CMRS providers free of charge. Flex ANI provides unique payphone specific coding digits to ensure appropriate CPP billing for payphone originated calls. APCC Comments at 6-8.

calls.[81] This type of network based solution protects all parties' interests by ensuring that only calls for which charges are recoverable will be completed.[82] Moreover, they can be implemented with existing technology without requiring PBX owners to upgrade their systems and without affecting numbering resources.

Similarly, solutions within the network are available to ensure that payphone providers are not billed for unauthorized CPP calls. APCC concludes that blocking is not a viable alternative for payphone operators and instead suggests that the Commission require CMRS providers to utilize FLEX ANI.[83] Commission intervention, however, is not necessary because CMRS carriers, working with payphone operators, will likely develop the best means for ensuring that CPP calls are not charged to payphone operators erroneously. Whether it is Flex ANI or another solution, it is in the industry's best interest to fill in the gaps to the collection of CPP charges. As a result, it is not a matter that presently requires Commission resolution.

E. The Commission Should Not Impose Reseller Switch Interconnection Obligations On CMRS Providers.

Interests supporting wireless resale have asked the Commission to revisit its inquiry into direct reseller switch interconnection. This is a matter that has been subject to extensive public

---

81 Nortel Comments at 8 ("[I]t is clear that the LIDB database system is technically capable of screening for the acceptability of CPP (analogous to Collect) charges . . . . This solution provides protection to the PBX owner from improper CPP billing and would do so without requiring additional capital investment on their part to achieve this protection, because existing PSTN functionality would be used.").

82 GTE concludes that "[u]se of an AIN-based methodology is an effective means for eliminating leakage and offers a cure to many of the customer perception problems associated with switch-based CPP." GTE Comments at 10.

83 APCC Comments at 6.